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9 **IN THE UNITED STATES DISTRICT COURT**
 10 **FOR THE DISTRICT OF ARIZONA**

11 Daniel Fellner,

12 Plaintiff,

13 v.

14 Travel 4 All Seasons LLC,

15 Defendant.

Case No. 2:19-cv-01719-DJH

**PLAINTIFF'S NOTICE
 CONCERNING JOINT
 REPORT OF SETTLEMENT
 DISCUSSIONS (DOC. 36)**

16 Plaintiff Daniel Fellner, by and through undersigned counsel, hereby provide notice
 17 of correction to the Joint Report of Settlement Discussions filed in this case at Doc. 36
 18 ("Report"). In the Report, the parties jointly report that they had engaged in settlement
 19 discussions which were not fruitful, stating specifically that "good faith settlement
 20 discussions by telephone and email [were conducted] but were unable to resolve this
 21 matter." (Doc. 36 at 1:18-19.) Mr. Fellner, Plaintiff herein, was never informed by Richard
 22 Liebowitz that settlement negotiations were ongoing. As such, Plaintiff believes that due to
 23 Mr. Liebowitz's apparent misconduct in, *inter alia*, failing to communicate any settlement
 24 offer from Defendant to him in violation of ethical rules¹ or that settlement negotiations

25
 26 ¹ See, e.g., ER 1.4, Comment 2 (stating that "a lawyer who receives from opposing counsel
 27 an offer of settlement in a civil controversy must promptly inform the client of its substance
 28 unless the client has previously indicated that the proposal will be acceptable or
 unacceptable or has authorized the lawyer to accept or reject the offer") (citing ER 1.2(a)
 ["(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions

1 were even ongoing, the settlement discussions were, unbeknownst to Defendant, not done
 2 in “good faith.” As of the date of the Report (Dec. 6, 2019), Mr. Fellner was open, and
 3 continues to be open to, settlement of this matter. The undersigned will attempt to rectify
 4 this situation by, *inter alia*, attempting to negotiate a settlement in good faith with
 5 Defendant by (1) communicating with Defendant and determining what the parties’
 6 settlement position was as of the date of the Report and (2) attempting to settle the case at
 7 this stage.

8 RESPECTFULLY SUBMITTED this 3rd day of August, 2020.

9 MotoSalas Law, PLLC

11 By: /s/Kenneth M. Motolenich-Salas

12 Kenneth M. Motolenich-Salas (027499)

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19 *Proposed Attorney of Record for Plaintiff Daniel Fellner*

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25 concerning the objectives of representation and, as required by ER 1.4, shall consult with
 26 the client as to the means by which they are to be pursued. A lawyer may take such action
 27 on behalf of the client as is impliedly authorized to carry out the representation. A lawyer
 28 shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer
 shall abide by the client's decision, after consultation with the lawyer, as to a plea to be
 entered, whether to waive jury trial and whether the client will testify.”].)

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of August, 2020, I electronically transmitted the foregoing document and all exhibits thereto to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all CM/ECF registrants of record in this matter.

By: /s/ Kenneth M. Motolenich-Salas